

## **MINUTES**

### **MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON STATE ADMINISTRATION**

**Call to Order:** By **CHAIRMAN DON HARGROVE**, on January 30, 2001 at 10:00 A.M., in Room 335 Capitol.

#### **ROLL CALL**

**Members Present:**

Sen. Don Hargrove, Chairman (R)  
Sen. John C. Bohlinger, Vice Chairman (R)  
Sen. Edward Butcher (R)  
Sen. Pete Ekegren (R)  
Sen. Jim Elliott (D)  
Sen. Eve Franklin (D)  
Sen. Ken Toole (D)

**Members Excused:** Sen. Fred Thomas (R)

**Members Absent:** None.

**Staff Present:** Lynette Brown, Committee Secretary  
David Niss, Legislative Branch

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: SR 8, SB 296, 1/22/2001  
Executive Action: HB 91

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#### **HEARING ON SR 8**

**Sponsor:** SEN. KEN TOOLE, SD 27, Helena

**Proponents:** None

**Opponents:** None

The confirmation hearing for **Gail Gray**, Director of Public Health and Human Services, began as **Gail Gray** shared her background

experience with the committee. She received a Bachelor's degree in health and physical education, a master's degree in special education, a master's degree in health and physical education, and a doctorate in education. **Ms. Gray** has taught at the preschool level, middle school and high school levels, and collegiate level. She was a special education monitor for the Department of Public Instruction, served as budget director for special education, and state director of special education. **Ms. Gray** served as the director of the Department of Social and Rehabilitative Services, then returned to the Office of Public Instruction as assistant superintendent. She has served on advisory committees, the Children's Trust Fund, Disabilities Planning and Advisory Council, state Special Olympics board, Justice Council, and the INTER-agency Coordinating Council.

**Ms. Gray** told the committee the mission of the Department of Public Health and Human Services is to improve and to protect the well-being, and the self-reliance of all Montanans. There are nine divisions in this department, with almost 3,000 employees.

**Gail Gray** said the department works on: 1) mental health, 2) supplemental needs, 3) local community options & training, 4) developmental disabilities, 5) leveraging Medicaid funding, 6) welfare reform, and 7) age issues. Two administrative goals are: 1) living within the budget, and 2) audit reports.

**Proponents:** None

**Opponents:** None

**Questions from Committee Members and Responses:**

**SEN. JOHN BOHLINGER** asked **Gail Gray** to comment on how we could bring back the 60 kids from Montana that have received services out of state? **Gail Gray** replied that some of the out of state programs are very costly. The Department will look at what the state of Montana could do educationally for these students, as tuition is very high out of state for these students. They will look at the 100 most costly children first and evaluate what could be done within Montana for those children; if there are any clusters of students, perhaps a program could be set up for those children. The Department will attempt to reach these students at a younger age to improve their long-term success.

**SEN. BOHLINGER** asked **Gail Gray** where the money would come from for these children? **Ms. Gray** answered there is money in tuition for these students and the schools could collect some money from Medicaid funds that are available.

**SEN. ED BUTCHER** asked **Gail Gray** if she was interested in looking into area-agencies for cost savings? **Ms. Gray** responded her department had been dealing more with people in crisis situations so far. They have looked at waivers, nursing home rates, and veterans homes. She was receptive in looking into the area-agencies. **SEN. BUTCHER** asked if **Ms. Gray** was interested in tax credits for in-home services for the elderly? **Ms. Gray** responded that the Medicaid waiver has allowed people optional services other than nursing homes.

**SEN. PETE EKEGREN** asked **Gail Gray** to explain provider rates. She explained there were several provider rates with the majority being in medicaid. **SEN. EKEGREN** asked why there were different rates in nursing homes for those who could pay their own way and those who were unable to pay their own way? **Ms. Gray** answered the differences in rates are because Medicaid negotiates for rates.

**SEN. JIM ELLIOTT** asked what kind of advocate **Gail Gray** would be for increased funding for mental health programs and needs? **Ms. Gray** responded there are certain cost effective measures the Department needs to be taking in which she believes strongly. She emphasized that once the Department's budget is established, they would do their very best to live within that budget, even if it would mean cutting some programs. **Ms. Gray** added she would be a strong advocate, however, once the decision had been made on the budget, then that was what she would work within.

**SEN. EVE FRANKLIN** asked if emphasis is put on the high-risk children, then what would happen to the rest of the children receiving services that are not eligible for CHIPS? **Gail Gray** answered it was a very difficult decision, but after looking at various options it was decided that at least those children had some other services to help them. This was not a decision they wanted to make, but after looking at the amount of money affected, this was the decision they arrived at.

**SEN. KEN TOOLE** asked **Gail Gray** to comment on welfare reform success. **Ms. Gray** said there had been a two-thirds reduction in the number of people on public assistance. She added that just because you are out of public assistance, that does not mean things are going well for you. Unless those people get some help with further education, health care, or purchasing a vehicle, it is just a short-term solution.

**SEN. TOOLE** asked **Gail Gray** if she supported child support insurance? She responded she had some problems with child support insurance because the fiscal impact is very large and there is not enough money available to support that program along with the

other programs in place. She was interested in having a pilot program in one county to evaluate the program without the total commitment because the money is not there.

**SEN. TOOLE** questioned **Gail Gray** about governmental money going to religious institutions providing public services. **Ms. Gray** responded that they need to watch very closely for the separation of church and state. She added that churches have provided very good services, but the church and state separation is important to watch.

**SEN. TOOLE** asked **Gail Gray** if there would be much cutting done without impacting services? **Gail Gray** responded that anytime these services could be provided in a more efficient manner, they are better off. If offices are reduced, there are consequences. They have to carefully weigh the consequences whenever cutting any programs or positions.

**SEN. DON HARGROVE** asked **Gail Gray** what was learned from the Magellan Contract? **Gail Gray** responded much had been learned from this such as managed care is not necessarily a bad concept, but the state took on too much at one time. She said it was learned to try small pilot projects before doing something that affects many people's lives.

**SEN. HARGROVE** asked **Gail Gray** how she intended to work with legislators? **Gail Gray** responded by saying while in her previous position, legislators did not hesitate to call her directly to question her about certain issues. She added that is part of democracy and she committed to seeing that continue.

**Gail Gray** close by urging people to call her if they had any questions and expressed a desire for the different departments and agencies to work together.

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#### HEARING ON SB 296

**Sponsor:** SEN. STEVE DOHERTY, Sd 24, Great Falls

**Proponents:** REP. MARK NOENING, HD , Billings  
Hal Harper, representing himself  
Matthew Leow, Montana Public Interest Group  
Betty Beverly, Montana Senior Citizens Association

**Opponents:** Steven Ertelt, Montana Right to Life

**Scott Creighton, American Civil Liberties Union of  
Montana**

**Opening Statement by Sponsor:**

**SEN. STEVE DOHERTY, SD 24, Great Falls**, stated this bill would require the independent candidate to contact the opponent before placing third party ads. He stated this bill would get more truth in advertising.

**Proponents' Testimony:**

**REP. MARK NOENING, HD 9, Billings**, expressed concern about negative campaigning. He said he wanted accountability in campaigning and wanted to see improvement in integrity of the political process. **REP. NOENING** said we need to improve the tone of advertising in campaigns.

**Hal Harper, representing himself**, strongly supported this bill. He said this bill would advance campaigning in Montana. He told the committee this bill would allow voters to base their decisions on issues rather than on false, defamatory information. **Hal Harper** said this would make people take responsibility for the campaigns they run.

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**Matthew Leow, Mont PIRG**, stated this bill promotes accountability by allowing a candidate an opportunity to promote or reject an ad.

**Betty Beverly, Montana Senior Citizens**, stated her organization supports this bill. She said many senior citizens are housebound and get confused when the negative ads run. The senior citizens want to understand the truth about the candidates.

**Opponents' Testimony:**

**Steven Ertelt, Montana Right to Life, EXHIBIT(sts24a01)** spoke in opposition to this bill.

**Scott Creighton, American Civil Liberties Union**, said he respects the intent behind this bill, but this bill would not accomplish what it is attempting to do. He said he was concerned about issue advocacy being affected by this bill.

**Questions from Committee Members and Responses:**

**SEN. FRANKLIN** asked **SEN. DOHERTY** if this bill affected issue advocacy and/or expenditures? **SEN. DOHERTY** responded this bill would affect both issue advocacy and expenditures.

**SEN. FRANKLIN** asked **Scott Creighton** to speak on issue advocacy advertisements in relation to his organization. **Mr. Creighton** responded his organization has limited resources, so they do not place many ads on TV or airways.

**SEN. EKEGREN** asked **SEN. DOHERTY** why the bill would take effect after the primaries? He responded because otherwise, there would be too much of a burden for ads placed. After the primary, the number of people is more limited. **SEN. EKEGREN** asked **SEN. DOHERTY** what the consequences would be if people did not comply with the requirements? **SEN. DOHERTY** responded there are no consequences other than the court of public opinion. **SEN. DOHERTY** added he would like the ad to state if the candidate approved or rejected the information in the ad.

**SEN. ELLIOTT** asked **Steven Ertelt** how it would impinge on the free speech of someone who was making an independent campaign expenditure to have a note attached stating agreement or disagreement with the ad? **Mr. Ertelt** answered it would cost considerable amounts of time and money.

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**SEN. HARGROVE** asked **Linda Vaughey, Commissioner of Political Practices**, if we could rely on the Court of Public Opinion or if we would need to rely on other courts in case of violations? She responded a complaint could be filed with her office and they would undertake the investigation.

**SEN. TOOLE** asked **Linda Vaughey** to define independent expenditures which she defined as an expenditure for communications expressly advocating success or defeat of the candidate or ballot issue which is not made with the cooperation, consent, or consultation with a candidate. Issue ads currently don't require disclaimers. A coordinating expenditure is an expenditure made in cooperation with, consultation with, or at the request or suggestion of a candidate, she added.

**SEN. HARGROVE** asked **Linda Vaughey** if her office would be able to take a passive position in this? **Linda Vaughey** answered that, no, her office would have to make some new rules and expressed difficulty with the test problem.

**SEN. BOHLINGER** expressed anger about the effects of negative campaigning. He asked **Scott Creighton** if the ACLU tried to influence by telling the truth or stretching the truth? **Mr. Creighton** responded he was a firm believer of telling the truth.

**SEN. BOHLINGER** then asked **Steven Ertelt** if his organization is truthful in the ads? **Steven Ertelt** answered that his organization is truthful in the ads.

**SEN. TOOLE** asked **Steven Ertelt** why his organization doesn't just go to the candidates to express support? **Steven Ertelt** responded they do this sometimes, with their decisions being based on money, membership opinions, and what they want to see brought out in the ad.

**SEN. ELLIOTT** asked **Steven Ertelt** and **Scott Creighton** if a party broadcasts lies, does that party abrogate on free speech if that party does not have the money to respond? **Mr. Ertelt** responded that was an issue the supreme court would have to decide. **Mr. Creighton** answered he felt **SEN. ELLIOTT** was referring to paid speech, not free speech.

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Closing by Sponsor: **SEN. STEVE DOHERTY, SD 24** closed SB 296.

**ADJOURNMENT**

Adjournment: 12:15 P.M.

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SEN. DON HARGROVE, Chairman

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LYNETTE BROWN, Secretary

DH/LB

**EXHIBIT (sts24aad)**